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Sent: 7/14/2017 1:31:03 PM
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Subject: Char. Biz Jour: Major legislation that sets stage for growth is now up to governor

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By John Downey

Gov. Roy Cooper has the future of the state's renewable power industry sitting on his desk. He can sign the solar energy bill that has gone through nine months of negotiations and a last-minute back and forth in the N.C. legislature, giving Duke Energy and the solar industry a big win. Or he can reject it to protect wind-power developers from an 18-month moratorium on new projects.

The problem is the industry will face major changes — and significant challenges — whichever way he goes.

A veto seems increasingly unlikely with even the negotiators of the original compromise divided over the way forward. There is a growing sense he will allow it to become law without his signature.

Proponents of the bill contend it could save customers \$850 million over 10 years in lower costs for renewables and extend the state's leadership in the solar energy industry.

Opponents of the moratorium say it could cost economically strapped eastern North Carolina counties nearly \$500 million worth of investment in two wind projects now in advanced planning stages. And it could cost hundreds of millions more in future wind projects.

So all sides are proceeding cautiously.

Notably, none of the groups involved in the negotiations to craft the original compromise have yet called for a veto.

Duke Energy and the N.C. Retail Merchants Association, which represented retailers seeking regulations to ease construction of solar on their rooftops, support the bill. Groups such as the N.C. Sustainable Energy Association, the N.C. Clean Energy Business Alliance and the Environmental Defense Fund say they are still considering their options.

And so is Cooper.

He strongly supported the original House bill, and main pieces of that legislation remain in the compromise: a competitive bidding process for utility-scale solar construction, a commitment by Duke to seek bids for at least 2,660 megawatts worth of renewable energy through late 2021 and policies that encourage residential and commercial rooftop solar construction.

Cooper has lamented the state Senate action attaching the moratorium on wind permits.

He has until July 27 to decide whether to veto the bill.

"In the next week or so, I'm bringing in people from wind energy advocates, we're going to talk to people in the military, we are going to talk to solar energy advocates, we're going to talk to Duke Energy, we're going to talk to people who care about this issue and examine the pros and cons of signing or vetoing this legislation," he told reporters Tuesday. "They haven't made it easy with the addition of this wind moratorium, because (they are) essentially trying to pit renewables against each other."

There have been calls for a veto.

The American Wind Energy Association made one last week.

"Gov. Roy Cooper should veto this bill. A few gains for one renewable industry are not worth giving the bum's rush to another," Greensboro News & Record columnist Susan Ladd wrote Sunday.

Sen. Erica Smith-Ingram (D-Northampton), who mounted opposition to the moratorium on the Senate floor, is also calling for a veto.

The two wind developers with projects already in process want Cooper to shoot the bill down. And Weyerhaeuser Co., which has leased significant property to those projects as well as the state's operating Amazon Wind Farm, has also called for a veto.

But the Southeast Wind Coalition has not. That N.C.-based group says only it is "working with all stakeholders to minimize the negative impact of this decision."

Solar developers contacted declined to take a position. Some of the larger companies — California's Cypress Creek Renewables and Chapel Hill's Strata Solar — were important players in the long negotiations that included more than 30 meetings with Duke and other stakeholders.

The final bill contained everything the solar industry won in the negotiations, and so they — like Duke — have strong reason to want to see it enacted. But they are deferring to the N.C. Clean Energy Business Alliance — the trade association that represents renewable energy businesses across the board. And Chris Carmody, executive director of that organization, says it has not yet settled its position.

"I think any position we take will represent a consensus of pretty well all our members," he says. He says it will be an independent position, not tied to the final position of any other stakeholders in the long negotiations.

Ivan Urlaub, executive director of the N.C. Sustainable Energy Association, says much the same thing.

His organization is a nonprofit that promotes the optimal use of sustainable energy sources in the state. Like NCCEBA, it has broad representation of energy sources in its membership.

He says it's unfortunate the industry and Cooper are being forced to choose whether to accept the bill for its general pro-clean energy facets or reject it for its shot at wind development.

Urlaub says clean energy advocates understandably worry whether the 18-month moratorium will not give way to some new tactic to frustrate wind or other renewable development from anti-renewable legislators in future sessions.

And if the tactics work against wind, they will be used against other renewables, Urlaub says. He notes the original Senate amendments to the House bill attempted to weaken the solar industry as well as wind. Urlaub says the industry has seen legislative opponents try to use such "divide and conquer" tactics before.

Sen. Harry Brown (R-Onslow) authored the wind moratorium. He says his only concern is protecting eastern N.C.'s military air bases. He contends wind development in the region could lead to the eventual closure of the Seymour Johnson Air Base and the Marine Corps Air Station Cherry Point if 600-foot wind turbines prevent training exercises.

He wants to determine where wind can be developed without encroaching on military bases. The moratorium is to protect against permits for wind projects until maps are completed.

"Eighteen months is a compressed time," he says, referring to the compromise the Senate made on his original four-year moratorium. "But I think it will be sufficient to get those maps done."

Smith-Ingram says the moratorium is borne out of opposition to wind power. She says maps have already been prepared for much of the state. And they show that two key projects — the \$300 million Timbermill Project proposed by Virginia-based Apex Wind Energy in Chowan and the \$200 million Little Alligator project proposed by Britain-based Renewable Energy Systems — would not encroach on training operations.

Smith-Ingram says both are threatened by a moratorium that no one in the military has sought when the services already have significant input into where projects can be built.

"Sen. Brown's argument is unconvincing and the moratorium is unnecessary," she says. "I hope the governor will veto the bill and let us come back in April and pass legislation that will support this important industry."

Rep. John Szoka (R-Cumberland) helped craft the initial House bill, and he is unhappy with the moratorium. But he wants to see the bill become law and hopes there is no need to try to overcome a Cooper veto.

There is, he contends, much good in the bill. He says competitive bidding for solar will introduce market discipline for renewables. It opens up possibilities for rooftop solar and allows community solar development that creates more competition for energy dollars. "It's actually quite an achievement," he says of the legislation.

He prefers his original version but says, "I'd rather have 85% of something than 100% of nothing."

He contends that at 18 months, the wind development moratorium would expire at the end of 2018. He says that is unlikely to cause any significant delay in the construction of the projects already in process.

And he hopes that completing the new maps Brown wants will settle the frequently debated issue of the potential impact on air bases.

But Urlaub has his doubts. “There is a significant amount of uncertainty for the wind developers,” he says.

The bill is undoubtedly the most significant energy legislation passed by the state since Senate Bill 3 in 2007, which established the renewable energy portfolio act and changed state law to make it easier for utilities to recover costs for large base-load plants.

The problem for the governor, legislators, energy businesses and the public, Urlaub says, is that there will be serious consequences — for the good and bad — if it becomes law. And there are possibly even more if it doesn’t.